

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LORAMAX LLC,

Plaintiff,

v.

FRONTIER AIRLINES, INC.,

Defendant.

Civil Action No. 2:15-cv-00752-RWS-RSP

JURY TRIAL DEMANDED

LORAMAX LLC,

Plaintiff,

v.

JETBLUE AIRWAYS CORPORATION,

Defendant.

Civil Action No. 2:15-cv-00755-RWS-RSP

JURY TRIAL DEMANDED

LORAMAX LLC,

Plaintiff,

v.

PORTER AIRLINES INC.,

Defendant.

Civil Action No. 2:15-cv-00757-RWS-RSP

JURY TRIAL DEMANDED

LORAMAX LLC,

Plaintiff,

v.

WESTJET AIRLINES LTD.,

Defendant.

Civil Action No. 2:15-cv-00767-RWS-RSP

JURY TRIAL DEMANDED

**DEFENDANTS' MOTION AND JOINDER IN SAFEWAY INC.'S REPLY IN SUPPORT
OF RENEWED MOTIONS TO DISMISS FOR FAILURE TO STATE A CLAIM**

Defendants Frontier Airlines, Inc. (“Frontier”), JetBlue Airways Corporation (“JetBlue”), WestJet Airlines Ltd. (“WestJet”), and Porter Airlines Inc. (“Porter”) submit this reply in support of their Motions and Joinders in Defendant Safeway Inc.’s Renewed Motion to Dismiss and in reply to Loramax’s Response dated October 15, 2015 in the above captioned cases. *See* Case no. 2:15-cv-00755, Dkt. No 17 (“Plaintiff Loramax’s Response to Defendants’ Motions and Joinder in Defendant Safeway Inc.’s Renewed Motion to Dismiss for Failure to State a Claim”).¹

On October 15, 2015, Loramax replied to Defendants’ Motions by stating that “Loramax hereby incorporates by reference in its entirety its response in opposition to the Safeway § 101 motion . . . as its response here to each of the Defendants’ § 101 motions.” *See* Case no. 2:15-cv-00755, Dkt. No 17, at 1. Further, Safeway filed a Reply in Support of its Renewed Motion to Dismiss on October 16, 2015. *See* Case no. 2:15-cv-00758, Dkt. No 23 (“Safeway’s Reply Motion”).

Defendants agree with the arguments in Safeway’s Reply Motion that claims 1 and 6 of the ’642 Patent are directed to an abstract idea and are invalid under 35 U.S.C. § 101 based on the guidance provided by the Supreme Court in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347 (2014). Accordingly, in order to reply to Loramax’s Response dated October 15, 2015, Defendants hereby respectfully request the Court take notice that Defendants join Safeway’s Reply Motion. Further, Defendants hereby incorporates by reference Safeway’s Reply Motion in its entirety, as well as the legal authorities that are cited therein.

In addition, Defendants note that Loramax’s Response to Safeway’s Reply Motion is silent with respect to Defendants arguments that dependent claims 2-5 and 7-18 of U.S. Patent

¹For Defendants’ Motions to Dismiss and Joinders *see* Case No. 2:15-cv-752, Dkt. No. 13 (Frontier’s Motion to Dismiss); Case No 2:15-cv-755, Dkt. No. 14 (JetBlue’s Motion to Dismiss); Case No. 2:15-cv-757, Dkt. No. 11 (Porter’s Motion to Dismiss); and Case No. 2:15-cv-767, Dkt. No. 11 (WestJet’s Motion to Dismiss) (collectively “Defendants’ Motions”).

No. 5,689,642 (“the ’642 patent”) are also invalid under 35 U. S. C. § 101 for being directed to the same abstract idea as claims 1 and 6, and for reciting nothing more than generic computer functionality. *See* Case 2:15-cv-00758-RWS-RSP, Dkt. No. 21, Plaintiff Loramax LLC’s Response to Defendants’ [Safeway] Renewed Motions to Dismiss, October 5, 2015. For example, Loramax has not disputed that the dependent claims share the same underlying idea to which the independent claims are directed and that each dependent claim merely adds further steps and components in the pursuit of “distributing information in a manner preferred by a user.”

In view of the foregoing, the Court should grant this Motion and dismiss Loramax’s Amended Complaint as a matter of law pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim as the claims of the ’642 Patent are invalid under 35 U. S. C. § 101.

Dated: October 26, 2015

Respectfully submitted,

/s/ Jennifer Parker Ainsworth

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Counsel for Frontier Airlines, Inc., JetBlue Airways Corporation, WestJet Airlines Ltd., and Porter Airlines Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on October 26, 2015.

/s/ Jennifer P. Ainsworth

Jennifer P. Ainsworth